

NY PLAINTIFFS FILE SUMMARY JUDGMENT MOTION

Alleging that since the 2008 Recession, New York State has failed to implement the funding reforms it adopted in response to court holdings in the *CFE* litigation that the state's system for funding education was unconstitutional, plaintiffs in *NYSER v. State of New York* this week filed a motion asking State Supreme Justice Manuel J. Mendez to by-pass lengthy trial proceedings and declare that the state's continuing non-compliance must be fully remedied by the 2016-2017 school year.

Although in recent years, Governor Andrew Cuomo and the legislature have restored some of the devastating cuts to education funding that were put in place in the years following the recession, plaintiffs claim that core foundation funding for education in 2015-2016 will still be almost \$5 billion less than the State itself has determined to be necessary to provide all students the opportunity for a sound basic education.

Plaintiffs are asking the Court to order the state no later than the 2016-2017 school year to either (a) provide full funding in accordance with the foundation funding formula set forth in the state statutes; or (b) develop and implement an alternative state education finance system that meets constitutional requirements for providing all students throughout the state the opportunity for a sound basic education.

In November, Justice Mendez denied the State's motion to dismiss the case. Referring specifically to some of the devices and mechanisms the state has used to reduce its education appropriations, Justice Mendez held that "the 'gap elimination adjustment' . . . the cap on state-aid increases, the supermajority requirements concerning increases in local property tax levies," together with penalty provisions imposed on New York City students last year in connection with the implementation of the new teacher evaluation system, all "could potentially be found irrational, arbitrary or capricious and capable of preventing a sound basic education."

Based on the indisputable facts regarding the state's budgetary actions and inactions since 2007, the State's answering papers and the budget that the legislature adopted in April for the next school year, plaintiffs are now asking the Court to issue a ruling on the merits holding that the current system is, in fact, "preventing" students from receiving the opportunity for a "sound basic education" to which they are entitled under Art. XI § 1 of the State Constitution and of the rulings of the Court of Appeals in *CFE v. State of New York*.

The plaintiffs in *NYSER v. State of New York* are 25 parents from New York City and from urban, suburban and rural districts throughout the state, and NYSER, an organization whose members include the New York State School Boards Association, the New York State Council of School Superintendents, the New York State PTA, the New York State Association of School Business Officials, the Statewide School Finance Consortium, the Rural Schools Association, 11 of New York City's Community Education Councils, and a number of parent groups and advocacy groups around the state. Counsel for plaintiffs are: Michael A. Rebell, Esq. and

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